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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/977,112

10/11/2001

Greg Mercurio

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09/01/2006

AKA CHAN LLP / CISCO

900 LAFAYETTE STREET

SUITE 710

SANTA CLARA, CA 95050

EXAMINER

CAI, WAYNE HUU

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/977,112

Applicant(s)

MERCURIO, GREG

Examiner

Wayne Cai

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attachment(s).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


**DUC NGUYEN
PRIMARY EXAMINER**

ADVISORY ACTION

Response to Arguments

1. Applicant's arguments filed August 02, 2006 have been fully considered but they are not persuasive.

Firstly, the Applicant argues at last paragraph of page 10 that Kabala fails to teach or suggest "computer code for causing static input information associated with the wireless transceiver device to be accepted." The Applicant further states that the wireless transceiver' own identification codes, are already part of the wireless transceiver. Such information does not need "to be accepted".

The Examiner respectfully disagrees with the arguments because "static input information" is broadly and reasonably interpreted as any information is entered or input (e.g., badges ID, transceiver' own identification code, signal strength, etc.) The Examiner apologizes for the confusion when adding in previous office action that the static input information includes transceiver's own identification codes. However, the wireless transceiver device of the claimed invention is considered as the transceiver 151-162 of Kabala, and the roaming device of the claimed invention is considered as the badges of Kabala. Therefore, any information of the badges and associated with any particular transceiver 151-162 is accepted at the control processor 110 is broadly and reasonably considered as the static input information associated with the wireless transceiver device to be accepted. The Applicant is respectfully invited to Figure 5, where the wireless transceiver device is identified as "Booth 190", and all the visitors,

company, time in, time out, product A, and product B are static input information associated with the wireless transceiver device to be accepted.

Second, the Applicant argues at the second full paragraph of page 11 that the claims must follow the standard patent practice, i.e., that the elements following the term, "comprising," mean that the elements are parts of the wireless transceiver device which precedes "comprising." The Applicant further asserts that the Examiner identified the "wireless transceiver device" with one of the Kabala transceivers 151-162, and the Examiner now identifies a purported element of the transceivers 151-162 with the control processor 110. This is inconsistent and not logical.

The Examiner respectfully disagrees with the statement above because it is the Examiner's position to give the broadest interpretation, and the Examiner indeed follows the standard patent practice as well. As stated by the Applicant, the elements following the term, "comprising," mean that the elements are parts of the wireless transceiver device which precedes "comprising." Therefore, the wireless transceiver device is one of the transceivers 151-162 of Kabala, and the memory arranged to store data located within the control processor 110 of Kabala are also part of the wireless device transceivers 151-162. Hence, the Examiner's interpretation is in accordance to the standard patent practice. The Examiner respectfully invites the Applicant to further amend claim to clarify and suggest to one skilled in the art that the present invention requires a memory arranged to store data is located within the wireless transceiver; otherwise, one skilled in the art would still conceptualize that the control processor 110

and memory located within the control processor 110 are parts of the wireless transceivers 151-162.

Third, the Applicant further argues at the second full paragraph of page 11 that nowhere the cited reference mentions that a memory in the transceivers 151-162 or in the control processor 110 has "an editable field" and that the transceiver's own identification codes stored in such an editable field. The Examiner once again disagrees with the arguments because the Examiner reasonably and broadly interprets "editable field" as collect, prepare, add-on field. Kabala clearly teaches or suggests that the wireless transceiver 151-162 are collecting all the visitors (i.e., badges information) and generating the listing of data. Hence, it is broadly considered the control processor 110 has an edible field to add on the listed as seen in Figure 5. See column 9, lines 3-17 of Kabala.

Fourth, the Application argues at the last paragraph of page 11 thru first full paragraph of page 12 that nowhere there described nor mentioned that any of the Kabala transceivers 151-162 have "computer code for causing a record associated with the roaming device to be generated, the record being arranged to include the static input information stored in the editable field and the data, wherein the computer code for causing the record associated with the roaming device to be generated further causes the record to be stored on the memory."

The Examiner respectfully disagrees with the arguments because Kabala clearly teaches or suggests at column 9, line 3-17 that a listing of the visits by individuals at a particular booth is shown and the times tat which the particular products viewed or

visited as recorded by the system is shown. See Figure 5. Therefore, it is clear to one skilled in the art that the list of individuals, times are considered as the static input information and it is also the record of the roaming device as claimed. Furthermore, Kabala teaches or suggests that the record generated is stored at the control processor 110. Hence, previous rejection was proper.

Fifth, the Applicant argues at the first paragraph of page 12 that the "record" as disclosed by Kabala does not include any static input information associated with a transceiver. Also, the transceivers' own identification codes do not appear in the archived list. The Examiner respectfully invites the Applicant to refer to the passage at column 9, lines 3-17, where Kabala teaches or suggests that the individuals at a particular booth and times is shown (Figure 5). The individuals and the time where visitors (badges ID) recorded is the static input information associated with the particular wireless transceiver device.

Finally, the Applicant argues that the Examiner contradicts himself by identifying the claimed processor with the central processor 110. However, as explained above, the control processor 110, memory, and processor would be still part of the wireless transceivers 151-162. Hence, the interpretation is still logical, and previous rejection was proper.

Independent claims 7 and 17 do not substantially differ from independent 1. Therefore, same rejections and explanations above are applied.

With respect to claims 24 and 29, same rejections and explanations above are applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Cai whose telephone number is (571) 272-7798. The examiner can normally be reached on Monday-Friday; 9:00-6:00; alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Wayne Cai
Examiner
Art Unit 2617